

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

b

BILLY MELDER

CIVIL ACTION NO. 1:16-CV-01767

VERSUS

CHIEF JUDGE DRELL

LARRY BRITTAIN, *et al.*

MAGISTRATE JUDGE PEREZ-MONTES

SUA SPONTE JURISDICTIONAL REVIEW ORDER

Before the Court is a Complaint removed from a Louisiana state court by Defendants Larry Brittain, Deem Structural Services, L.L.C., American Alternative Insurance Corporation, and Shelter Mutual Insurance Company. Defendants premise federal jurisdiction on diversity of citizenship.

The diversity statute – 28 U.S.C. § 1332 – is satisfied upon a showing of: (1) diversity of citizenship between the parties; and (2) an amount in controversy in excess of \$75,000, exclusive of interest and costs. “Complete diversity requires that all persons on one side of the controversy be citizens of different states than all persons on the other side.” Harvey v. Grey Wolf Drilling Co., 542 F.3d 1077, 1079 (5th Cir. 2008) (internal citation and quotation omitted). Further, “when jurisdiction depends on citizenship, citizenship must be *distinctly* and *affirmatively* alleged.” Getty Oil Corp., a Div. of Texaco, Inc. v. Ins. Co. of N. Am., 841 F.2d 1254, 1259 (5th Cir. 1988).

The Court has “an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.” Arbaugh v. Y&H Corp., 546 U.S. 500, 514 (2006). This duty persists throughout all

phases of the litigation, “even after trial and the entry of final judgment.” Id. at 506-07.

The citizenship of an individual is his or her domicile, meaning the place where an individual resides and intends to remain. See Acridge v. Evangelical Lutheran Good Samaritan Soc., 334 F.3d 444, 448 (5th Cir. 2003). A corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business. See Tewari De-Ox Sys., Inc. v. Mountain States/Rosen, Ltd. Liab. Corp., 757 F.3d 481, 483 (5th Cir. 2014). The citizenship of an LLC, a limited partnership, or other unincorporated association or entity is determined by the citizenship of all its members. See Harvey, 542 F.3d at 1079-80.

Plaintiff Billy Melder is a Louisiana resident.

Defendant Larry Brittain is a Texas resident.

Defendants allege that Deem Structural Services, L.L.C. is a Texas limited liability company with its principal place of business in Texas. Defendants have not specified the identity(ies) and citizenship(s) of the owner(s)/member(s) of Deem Structural Services, L.L.C.

Defendants allege that Shelter Mutual Insurance Company is a “foreign corporation” with its principal place of business in Texas. Defendants have not alleged the state of incorporation for Shelter Mutual Insurance Company.

Defendant have not alleged the state of incorporation or the principal place of business for American Alternative Insurance Corporation.

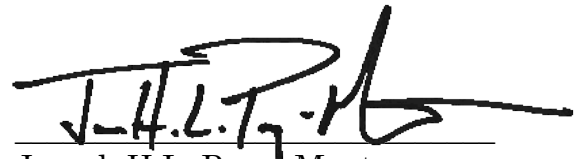
Therefore, diversity is not shown on the face of the pleadings.

The Clerk of Court is DIRECTED to serve a copy of this order upon any and all Defendants IMMEDIATELY upon receipt of proof of service or an appearance.

IT IS ORDERED that, not later than 21 days from service of this Order on Defendants Larry Brittain, Deem Structural Services, L.L.C., American Alternative Insurance Corporation, and Shelter Mutual Insurance Company, Defendants SHALL FILE: (1) a Jurisdictional Memorandum setting forth the citizenship of all parties to this lawsuit; and (2) a motion under for leave to amend the jurisdictional allegations of the Notice of Removal to adequately allege diversity jurisdiction.

IT IS FURTHER ORDERED that Plaintiff will be allowed **seven days** from receipt of Defendants' memoranda regarding jurisdiction to file a response.

THUS DONE AND SIGNED in chambers in Alexandria, Louisiana, this 25th day of April, 2017.



Joseph H.L. Perez-Montes
United States Magistrate Judge